



Safe Tables Our Priority

Fighting Foodborne Illness

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January 27, 2006

Dear Member of Congress,

I am writing on behalf of Safe Tables Our Priority (S.T.O.P.) to express serious concerns regarding the *National Uniformity for Food Act of 2005* (H.R. 4167) introduced by Congressman Mike Rogers (MI-8).

S.T.O.P. is concerned with the ambiguous language used in H.R. 4167, because such ambiguity could eliminate important state and local initiatives/regulations to improve food safety, going well beyond the bill's stated purpose of providing uniform food safety warning notification requirements. Attorneys for eleven state food safety programs have concluded, after carefully reviewing very similar legislation introduced in 2004 (HR 2699), that this type of legislation would, in fact, preempt their state and local food safety programs.

According to the National Association of State Departments of Agriculture, an estimated 80% of all food inspections occur at the state/local level. Further, a 2001 survey conducted by the Association of Food and Drug Officials' found that state and local agencies took action in over 45,000 separate instances of food safety violations. Clearly, state and local food safety initiatives play a critical role in preventing adulterated food products from entering the marketplace. Under H.R. 4167, state laws regarding adulterated foods and food additives are required to be "identical" to corresponding federal provisions. While the bill does allow states to petition the Food and Drug Administration (FDA) for a variance of the Federal Food, Drug and Cosmetic Act (FFDCA), any state enforcement efforts attempted during the "petition filing process" could be legally challenged. Given the lengthy petitioning process, this could mean that many state/local ordinances could be left without authority, thereby creating a gap in consumer and public health protection. In addition, H.R. 4167 does not provide any federal agency with resources to process and review such state petitions. This is significant since, in 2004, the Congressional Budget Office estimated that it would cost the FDA alone more than \$100 million, over five years, to process more than 100 petitions from various states.

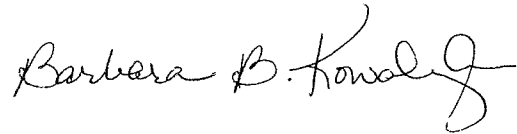
Furthermore, S.T.O.P. is concerned with the effects that H.R. 4167 could have on existing state/federal food safety cooperative programs that deal with Grade A milk, retail food protection and shellfish sanitation. Currently, these state/federal partnerships play a critically important role in protecting consumers as there are no federal laws governing inspection and regulation in these three major food areas. Under H.R. 4167, these food safety programs could be preempted, leaving these areas unregulated and states without the authority to remove adulterated product from the marketplace, creating another critical gap in America's food safety network.

Safe Tables Our Priority is dedicated to reducing suffering, illness and death due to foodborne illness. Since one of our representatives recently visited your office and urged you to consider food safety legislation, we feel that it is important for you to understand the reasons for S.T.O.P.'s opposition to H.R.

4167. We urge you to reconsider your co-sponsorship of this legislation and ask you to call for hearings on H.R. 4167 to discuss the impact and issues that the ambiguous wording of this bill raises and the immediate and long term effects it will have on food safety and the public health. The potential consequences of H.R. 4167 demand greater scrutiny before enacting this legislation.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, reading "Barbara B. Kowalczyk". The signature is fluid and cursive, with a large, stylized "K" and "Z" at the end.

Barbara B. Kowalczyk
President, Safe Tables Our Priority